

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1. ALGERITA FISHER,)	
)	
Plaintiff,)	
)	Case No. 14-CV-485-TCK-TLW
v.)	
)	
1. AMERICA’S AUTO AUCTION, INC., and)	
2. TULSA AUTO AUCTION, INC.,)	
)	JURY TRIAL DEMANDED
Defendants.)	ATTORNEY LIEN CLAIMED

COMPLAINT

Plaintiff Algeria Fisher, by and through her counsel of record, STOCKTON LAW GROUP, PLLC, respectfully files her Complaint against Defendants America’s Auto Auction, Inc., and Tulsa Auto Auction, Inc., as follows:

THE PARTIES

1. Plaintiff Algerita Fisher (“**Plaintiff**” or “**Fisher**”) is an individual adult African-American female who resides in Tulsa County, Oklahoma.

2. Defendants America’s Auto Auction Inc. and Tulsa Auto Auction, Inc. (“**Defendants**” or “**America’s Auto Auction**”) are for-profit corporations that jointly conduct business in the state of Oklahoma at 8544 E. Admiral Place, Tulsa OK 74115.

JURISDICTION AND VENUE

3. This civil action arises involves employment discrimination, harassment, and retaliation and is based on the following claims: (1) race discrimination, harassment, and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, and 42 U.S.C. § 1981; (2) sex discrimination, sexual harassment, the creation of a sexually-hostile work

environment, and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*; (3) retaliation against Plaintiff for opposing discriminatory practices within the workplace and for filing Charges of Discrimination with the EEOC in violation of Title VII of the Civil Rights Act of 1964; and (4) violations of the Equal Pay Act of 1963, 29 U.S.C. § 206, *et seq.*

4. Jurisdiction over Plaintiff's federal causes of action is vested in this Court pursuant to 28 U.S.C. § 1331.

5. Plaintiff has exhausted her administrative remedies by submitting Charges of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on or about September 19, 2013, December 16, 2013, and March 13, 2014. Plaintiff received her Dismissal and Notice of Rights from the EEOC dated May 22, 2014, and has filed this action within ninety (90) days of receipt of her Dismissal and Notice of Rights.

6. Defendants jointly conduct business in Tulsa County, Oklahoma, and all acts complained of occurred in or around Tulsa County. Furthermore, Defendants may be served in Tulsa County, Oklahoma. Because Tulsa County is located within the Northern District for the United States District Courts of Oklahoma, venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

STATEMENT OF FACTS

7. Plaintiff Algerita Fisher, who is an African-American female, began her employment with America's Auto Auction in Tulsa, Oklahoma, on or about December 2012 as a janitor.

8. Throughout her employment, Fisher performed her job satisfactorily and was qualified for each position she held.

9. Prior to becoming an employee, Fisher started working for Defendants as a temporary employee in or around August 2012. Thereafter, Scott Barrett ("**Barrett**") was hired as the

Operations Manager and was Fisher's direct supervisor.

10. After Barrett was hired, he began sexually harassing Fisher starting in or around July 2013. Specifically, Barrett made sexual comments towards Fisher and sent nude pictures of himself to Fisher's cell phone. He also brushed up against Fisher and asked her to go to the bathroom with him to have sex with him, including oral sex.

11. These sexual advances were unwelcome and made Fisher feel very uncomfortable. Fisher feared that she would lose her job if she did not welcome Barrett's sexual advances.

12. Fisher complained to Human Resources and to General Manager John McDonald ("McDonald") about Barrett's conduct.

13. After complaining of Barrett's conduct, Defendants retaliated against Fisher.

14. In or around September 2013, Fisher was moved out of her office so that Barrett could use the office.

15. Fisher first filed a Charge of Discrimination with the EEOC in or around September 2013.

16. Thereafter, she suffered further retaliation.

17. She also filed an amended Charge of Discrimination in or around December 2013 and a Second Amended Charge of Discrimination in or around March 2014.

18. Specifically, on or about December 3, 2013, Fisher's hours were cut from full-time (*i.e.*, 40 hours per week) to part time (*i.e.*, 20 hours per week) by the acting General Manager Aaron Moody.

19. Moody also took away some of Fisher's job duties, took her desk out of her office, and went through her personal belongings.

20. In addition, in or about January 2014, Fisher was written up by Moody for failing to clock out because of an emergency situation.

21. Upon information and belief, however, other employees have not been written up for the same conduct.

22. Fisher is the only African-American female employee at Defendants' Tulsa location.

23. When Fisher was hired, she was paid less than her predecessor, who was Caucasian.

24. Furthermore, when Fisher was hired, she was promised a raise. While she received a small raise in August 2013, she did not receive the raise she was promised and that other employees received.

25. As a direct and proximate result of Defendant's unlawful conduct, Fisher has suffered injuries and incurred damages.

THEORIES OF RECOVERY

A. FIRST COUNT: TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Plaintiff incorporates all prior allegations and further alleges and states as follows:

26. The matters alleged above constitute violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, in the nature of race and sex discrimination, harassment, hostile work environment, and retaliation.

27. As damages, Plaintiff has suffered lost earnings, past and future, emotional distress, and other equitable and compensatory damages allowed by the Civil Rights Act of 1991.

28. Because Defendants' actions were willful, wanton or, at the least, in reckless disregard of Plaintiff's rights, Plaintiff is entitled to punitive damages as provided by the Civil Rights Act of 1991.

B. SECOND COUNT - 42 U.S.C. § 1981

Plaintiff incorporates all prior allegations and further alleges and states as follows:

29. The matters alleged above constitute violations of 42 U.S.C. § 1981 in the nature of race discrimination which has affected Plaintiff's employment in both tangible and intangible aspects of the job.

30. As damages, Plaintiff has suffered lost earnings, past and future, emotional distress and other equitable and compensatory damages allowed by the Civil Rights Act of 1991.

31. Because Defendants' actions were willful, wanton or, at the least, in reckless disregard of Plaintiff's rights, Plaintiff is entitled to punitive damages as provided by the Civil Rights Act of 1991.

C. THIRD COUNT - EQUAL PAY ACT

Plaintiff incorporates all prior allegations and further alleges and states as follows:

32. The matters alleged above constitute violations of the Equal Pay Act, 29 U.S.C. § 206, *et seq.*, because Plaintiff was performing work that was substantially equal to that of male employees, the conditions where the work was performed was basically the same, and the male employees were paid more than Plaintiff.

33. As damages, Plaintiff is entitled to recover back pay and liquidated damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment in favor of Plaintiff and against Defendants and assess compensatory damages including but not limited to back pay, future wages, liquidated damages, emotional distress damages, and punitive damages, together with pre- and post-judgment interest, costs, attorney's fees, and all other relief as this Court may deem

equitable and appropriate and allowed by law.

Respectfully submitted,

s/ Joshua C. Stockton
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